

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S) : Colin G. Caro et al.

TITLE : HELICAL GRAFT

APPLICATION NO. : 10/549,498

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EXAMINING ATTORNEY : Megan Yarnall Wolf

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ART UNIT : 3738

CONFIRMATION NO. : 7739

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Cleveland, OH 44114
May 20, 2011

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §§ 1.56, 1.97, 1.98 and MPEP § 609, applicant(s) submit(s) the following Disclosure Statement concerning information of which the applicant(s) is (are) aware. A copy of PTO/SB/08 Form (renumbered from 1449) is enclosed.

This Information Disclosure Statement should not be construed to be an admission that any information referred to herein or submitted herewith is "prior art" or is considered to be material to patentability for this invention.

The United States Patent and Trademark Office OG Notice dated 12 October 2004 published a final rule revising 37 C.F.R. 1.98 dealing with the content of Disclosure Statements. Paragraph (a)(2) was revised to read in part, "A legible copy of:

(i) Each foreign patent; (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office." Therefore, applicant(s) has (have) not enclosed copies of the cited U.S. patents and published patent applications with this Information Disclosure Statement.

In accordance with 37 C.F.R. §1.97(g) and (h), the filing of this Information Disclosure Statement should not be construed to mean that a search has been made or that no other material information as defined in 37 C.F.R. §1.56(b) exists.

☒ Under § 1.98(a)(3), a concise explanation of relevance is required for information that is not in the English language. Accordingly, the English language documents have no further explanation.

☐ All of the cited and/or included documents were cited by the European Patent Office in a related application(s). A copy of the European Search Report is enclosed.

Consideration of the appropriate paragraph(s) indicated below is respectfully requested:

☐ WITHIN THREE MONTHS OF FILING: Under § 1.97(b)(1), this Information Disclosure Statement is being filed within three months of the filing date of the application (or date of entry of the national stage). Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FIRST OFFICE ACTION: Under § 1.97(b)(3), this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FIRST OFFICE ACTION: Under § 1.97(b)(4), this Information Disclosure Statement is being filed before the mailing date of a first Office Action after the filing of a request for continuation examination under § 1.114. Although it is believed no fee is necessary, any deficiency in fees should be handled as set forth below.

☐ BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH STATEMENT: Under § 1.97(c)(1), this information shall be considered if filed before the mailing date of a final action, or a

Notice of Allowance or action that otherwise closes prosecution in the application if accompanied by the statement:

Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

☒ **BEFORE FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/WITH FEE:** Under § 1.97(c)(2), this information shall be considered if filed before the mailing date of a final action if accompanied by a fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **AFTER FINAL ACTION, OR NOTICE OF ALLOWANCE, OR ACTION THAT CLOSES PROSECUTION/AND ON OR BEFORE PAYMENT OF THE ISSUE FEE:**

1. Under § 1.97(e)(1), the undersigned states:

☐ A. that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

☐ B. that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in

the Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement; **and**

2. ☐ the fee in the amount of \$180.00 as required by §1.17(p). Accordingly, the necessary fee accompanies this Information Disclosure Statement, as set forth below.

☐ **PRIORITY CLAIM:** The enclosed PTO/SB/08 includes all patents, publications, or other information previously cited by or submitted to the Office in one or more prior applications from which the present application claims priority. These one or more prior applications are identified in the papers accompanying the filing of this application.

Any payment due for the filing of this Information Disclosure Statement is authorized to be charged to a Credit Card (via EFS-Web). **If the Credit Card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.** If there are any additional fees required by this communication, please charge same to Deposit Account No. 06-0308.

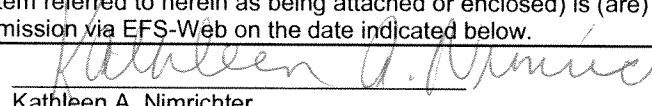
It is respectfully requested that the document(s) listed on PTO/SB/08 Form be considered and officially cited in examination of this application.

Respectfully submitted,

Fay Sharpe LLP

May 20, 2011
Date


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Certificate of Transmission or Mailing	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
May 20, 2011 Date	 Kathleen A. Nimrichter